

AMENDED IN SENATE JULY 1, 2010
AMENDED IN ASSEMBLY FEBRUARY 24, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1695

Introduced by Assembly Member Beall

January 28, 2010

An act to amend ~~Section~~ *Sections 830.1 and 831.5* of the Penal Code, relating to ~~custodial~~ *law enforcement* officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1695, as amended, Beall. Santa Clara County ~~Department of Correction~~: *deputy sheriffs and custodial officers: status and duties.*

Under existing law, any deputy sheriff of certain counties who is employed to perform duties exclusively or initially relating to custodial assignments, as provided, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary functions of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency.

This bill would include deputy sheriffs in Santa Clara County within that definition of peace officers, as specified.

Under existing law a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a county having a population of 425,000 or less, or by certain specified counties, including Santa Clara County, who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the

operation of a local detention facility. Under existing law, certain specified duties of custodial officers employed by the Santa Clara County Department of Correction may be performed at the Santa Clara Valley Medical Center, as needed, in regard to inpatient, in-custody inmates.

This bill would allow the duties of custodial officers employed by the Santa Clara County Department of Correction to be performed at other health care facilities in Santa Clara County, in addition to duties performed at the Santa Clara Valley Medical Center. This bill would remove the requirement that the inmate be inpatient at the health care facility.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Santa Clara.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 830.1 of the Penal Code is amended to
2 read:
3 830.1. (a) Any sheriff, undersheriff, or deputy sheriff,
4 employed in that capacity, of a county, any chief of police of a
5 city or chief, director, or chief executive officer of a consolidated
6 municipal public safety agency that performs police functions, any
7 police officer, employed in that capacity and appointed by the
8 chief of police or chief, director, or chief executive of a public
9 safety agency, of a city, any chief of police, or police officer of a
10 district, including police officers of the San Diego Unified Port
11 District Harbor Police, authorized by statute to maintain a police
12 department, any marshal or deputy marshal of a superior court or
13 county, any port warden or port police officer of the Harbor
14 Department of the City of Los Angeles, or any inspector or
15 investigator employed in that capacity in the office of a district
16 attorney, is a peace officer. The authority of these peace officers
17 extends to any place in the state, as follows:
18 (1) As to any public offense committed or which there is
19 probable cause to believe has been committed within the political
20 subdivision that employs the peace officer or in which the peace
21 officer serves.

(2) Where the peace officer has the prior consent of the chief of police or chief, director, or chief executive officer of a consolidated municipal public safety agency, or person authorized by him or her to give consent, if the place is within a city, or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.

(3) As to any public offense committed or which there is probable cause to believe has been committed in the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

(b) The Attorney General and special agents and investigators of the Department of Justice are peace officers, and those assistant chiefs, deputy chiefs, chiefs, deputy directors, and division directors designated as peace officers by the Attorney General are peace officers. The authority of these peace officers extends to any place in the state where a public offense has been committed or where there is probable cause to believe one has been committed.

(c) Any deputy sheriff of the County of Los Angeles, and any deputy sheriff of the Counties of Butte, Calaveras, Colusa, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Mariposa, Mendocino, Plumas, Riverside, San Benito, San Diego, San Luis Obispo, Santa Barbara, *Santa Clara*, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, and Tuolumne who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency.

~~SECTION 1.~~

SEC. 2. Section 831.5 of the Penal Code is amended to read:

831.5. (a) As used in this section, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of San Diego County, Fresno County, Kern County, Stanislaus

1 County, Riverside County, Santa Clara County, or a county having
2 a population of 425,000 or less who has the authority and
3 responsibility for maintaining custody of prisoners and performs
4 tasks related to the operation of a local detention facility used for
5 the detention of persons usually pending arraignment or upon court
6 order either for their own safekeeping or for the specific purpose
7 of serving a sentence therein. Custodial officers of a county shall
8 be employees of, and under the authority of, the sheriff, except in
9 counties in which the sheriff, as of July 1, 1993, is not in charge
10 of and the sole and exclusive authority to keep the county jail and
11 the prisoners in it. A custodial officer includes a person designated
12 as a correctional officer, jailer, or other similar title. The duties of
13 a custodial officer may include the serving of warrants, court
14 orders, writs, and subpoenas in the detention facility or under
15 circumstances arising directly out of maintaining custody of
16 prisoners and related tasks.

17 (b) A custodial officer has no right to carry or possess firearms
18 in the performance of his or her prescribed duties, except, under
19 the direction of the sheriff or chief of police, while engaged in
20 transporting prisoners; guarding hospitalized prisoners; or
21 suppressing jail riots, lynchings, escapes, or rescues in or about a
22 detention facility falling under the care and custody of the sheriff
23 or chief of police.

24 (c) Each person described in this section as a custodial officer
25 shall, within 90 days following the date of the initial assignment
26 to that position, satisfactorily complete the training course specified
27 in Section 832. In addition, each person designated as a custodial
28 officer shall, within one year following the date of the initial
29 assignment as a custodial officer, have satisfactorily met the
30 minimum selection and training standards prescribed by the
31 Corrections Standards Authority pursuant to Section 6035. Persons
32 designated as custodial officers, before the expiration of the 90-day
33 and one-year periods described in this subdivision, who have not
34 yet completed the required training, shall not carry or possess
35 firearms in the performance of their prescribed duties, but may
36 perform the duties of a custodial officer only while under the direct
37 supervision of a peace officer, as described in Section 830.1, who
38 has completed the training prescribed by the Commission on Peace
39 Officer Standards and Training, or a custodial officer who has
40 completed the training required in this section.

1 (d) At any time 20 or more custodial officers are on duty, there
2 shall be at least one peace officer, as described in Section 830.1,
3 on duty at the same time to supervise the performance of the
4 custodial officers.

5 (e) This section shall not be construed to confer any authority
6 upon any custodial officer except while on duty.

7 (f) A custodial officer may use reasonable force in establishing
8 and maintaining custody of persons delivered to him or her by a
9 law enforcement officer; may make arrests for misdemeanors and
10 felonies within the local detention facility pursuant to a duly issued
11 warrant; may make warrantless arrests pursuant to Section 836.5
12 only during the duration of his or her job; may release without
13 further criminal process persons arrested for intoxication; and may
14 release misdemeanants on citation to appear in lieu of or after
15 booking.

16 (g) Custodial officers employed by the Santa Clara County
17 Department of Correction are authorized to perform the following
18 additional duties in the facility:

19 (1) Arrest a person without a warrant whenever the custodial
20 officer has reasonable cause to believe that the person to be arrested
21 has committed a misdemeanor or felony in the presence of the
22 officer that is a violation of a statute or ordinance that the officer
23 has the duty to enforce.

24 (2) Search property, cells, prisoners or visitors.

25 (3) Conduct strip or body cavity searches of prisoners pursuant
26 to Section 4030.

27 (4) Conduct searches and seizures pursuant to a duly issued
28 warrant.

29 (5) Segregate prisoners.

30 (6) Classify prisoners for the purpose of housing or participation
31 in supervised activities.

32 These duties may be performed at the Santa Clara Valley Medical
33 Center, or at other health care facilities in the County of Santa
34 Clara, as needed and only as they directly relate to guarding
35 in-custody inmates. This subdivision shall not be construed to
36 authorize the performance of any law enforcement activity
37 involving any person other than the inmate or his or her visitors.

38 (h) Nothing in this section shall authorize a custodial officer to
39 carry or possess a firearm when the officer is not on duty.

(i) It is the intent of the Legislature that this section, as it relates to Santa Clara County, enumerate specific duties of custodial officers (known as “correctional officers” in Santa Clara County) and to clarify the relationships of the correctional officers and deputy sheriffs in Santa Clara County. These duties are the same duties of the custodial officers prior to the date of enactment of Chapter 635 of the Statutes of 1999 pursuant to local rules and judicial decisions. It is further the intent of the Legislature that all issues regarding compensation for custodial officers remain subject to the collective bargaining process between the County of Santa Clara and the authorized bargaining representative for the custodial officers. However, nothing in this section shall be construed to assert that the duties of custodial officers are equivalent to the duties of deputy sheriffs nor to affect the ability of the county to negotiate pay that reflects the different duties of custodial officers and deputy sheriffs.

(j) This section shall become operative on January 1, 2003.

~~SEC. 2.~~

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of distinctions in existing law that apply only to custodial officers employed by the Santa Clara County Department of Correction.